

AUSAs: Justin L. Brooke, Jared D. Hoffman

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

MARCO TULIO FERNANDEZ-
RODRIGUEZ, a/k/a "Markito," a/k/a "Marco
Yai,"

Defendant.

24 my 1182
SEALED AMENDED COMPLAINT

Violations of 18 U.S.C. §§ 924(c), 924(j),
1951, 21 U.S.C. §§ 841(b)(1)(A), 846

COUNTY OF OFFENSES:
WESTCHESTER

SOUTHERN DISTRICT OF NEW YORK, ss.:

JUSTIN GRAY, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE
(Conspiracy to Commit Hobbs Act Robbery)

1. Between at least on or about March 18 and March 19, 2024, in the Southern District of New York and elsewhere, MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a "Markito," a/k/a "Marco Yai," the defendant, and others known and unknown, knowingly combined, conspired, confederated, and agreed together and with each other to commit robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), and would and did thereby obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), to wit, the defendant conspired together and with others to rob at gunpoint a warehouse that sells various unlicensed marijuana and nicotine products in Mount Vernon, New York.

(Title 18, United States Code, Section 1951.)

COUNT TWO
(Conspiracy to Distribute Narcotics)

2. In or about March 2024, in the Southern District of New York and elsewhere, MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a "Markito," a/k/a "Marco Yai," the defendant, and others known and unknown, knowingly and intentionally combined, conspired, confederated, and agreed together and with each other to violate the controlled-substance laws of the United States.

3. It was a part and an object of the conspiracy that MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a "Markito," a/k/a "Marco Yai," the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

DANIEL ORTIZ, ACTING CLERK OF COURT

BY Deputy Clerk
Deputy Clerk JUL 18 2024

4. The controlled substances involved in the offense were (i) five kilograms and more of mixtures and substances containing a detectable amount of cocaine, in violation of Title 21, United States Code, Section 841(b)(1)(A), and (ii) one thousand kilograms and more of marijuana, in violation of Title 21, United States Code, Section 841(b)(1)(A).

(Title 21, United States Code, Sections 846 and 841(b)(1)(A).)

COUNT THREE
(Firearms Use, Carrying, and Possession)

5. On or about March 19, 2024, in the Southern District of New York and elsewhere, MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a “Markito,” a/k/a “Marco Yai,” the defendant, during and in relation to a drug trafficking crime for which he may be prosecuted in a court of the United States, namely, the drug trafficking crime charged in Count Two of this Complaint, knowingly used and carried a firearm, and in furtherance of such crime, possessed a firearm, and aided and abetted the use, carrying, and possession of a firearm, which was brandished and discharged.

(Title 18, United States Code, Sections 924(c)(1)(A)(i), (ii), and (iii) and 2.)

COUNT FOUR
(Murder Through the Use of a Firearm)

6. On or about March 19, 2024, in the Southern District of New York and elsewhere, MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a “Markito,” a/k/a “Marco Yai,” the defendant, during and in relation to a drug trafficking crime for which he may be prosecuted in a court of the United States, namely, the drug trafficking crime charged in Count Two of this Complaint, knowingly used and carried a firearm, and in furtherance of such crime, possessed a firearm, and aided and abetted the use, carrying, and possession of a firearm, and in the course of that crime caused the death of a person through the use of a firearm, which killing is murder as defined in Title 18, United States Code, Section 1111, and aided and abetted the same, to wit, the Defendants aided and abetted the fatal shooting of a victim in the vicinity of South Fifth Avenue, Mount Vernon, New York during and in relation to the drug trafficking crime charged in Count Two of this Complaint.

(Title 18, United States Code, Sections 924(j) and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

7. I have been a Special Agent with the FBI since approximately January 2018. Prior to joining the FBI, I was an investigator with the Brooklyn District Attorney’s Office since 2015. Over the course of my career, I have participated in numerous investigations of homicides, armed robberies, firearms offenses, conspiracies to commit violent crimes, and drug trafficking offenses. I have been personally involved in the investigation of this matter.

8. This affidavit is based upon my personal participation in this investigation, my conversations with other law enforcement personnel, and my review of law enforcement records and other evidence, and my training, experience, and advice received relating to investigations into homicides, armed robberies, firearms offenses, conspiracies to commit violent crimes, and drug trafficking crimes. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

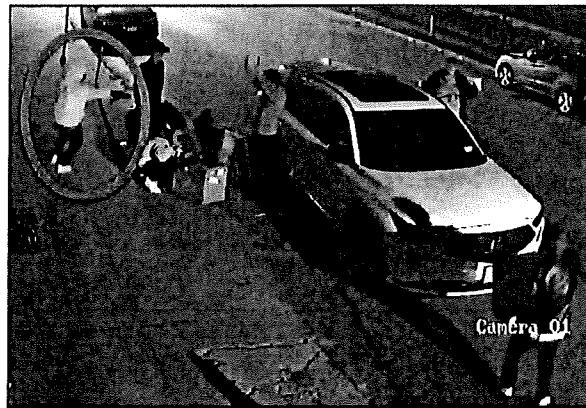
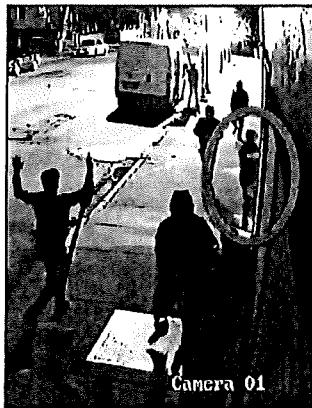
9. Based upon my participation in the investigation of this matter, my conversations with members of the Mount Vernon Police Department ("MVPD") and other members of the FBI investigating this matter, my review of video surveillance, and my review of related law enforcement reports and records, I have learned the following:

The Armed Robbery and Two Individuals Shot Dead

a. On or about March 18, 2024, at approximately 10:00 p.m., two customers (the "Customers") arrived at an address on South Fifth Avenue in Mount Vernon, New York, a wholesale warehouse that sells various unlicensed marijuana and nicotine products (the "Warehouse"). The two Customers placed an order for a large quantity of vapes and hookahs, among other items, from the Warehouse. It took employees of the Warehouse approximately two hours to prepare their order.

b. A little after midnight, after the Customers' order was prepared, two employees from the Warehouse helped the Customers carry the boxes containing the Customers' merchandise from the Warehouse to the Customers' vehicle. At that point, according to statements provided by the Warehouse employees and the Customers, as well as video surveillance, roughly between 10 and 15 people (the "Targets"), exited a van (the "Van") that was parked near the Warehouse and ran over to the Warehouse's employees and Customers. Many of the Targets possessed and brandished firearms.

c. According to one of the two Customers, when the Targets got out of the Van, they ran over to the two employees and the Customers, pointed their firearms at them, forced them to go back inside the Warehouse, and shouted, "lay down, lay down." Still images from video surveillance outside the Warehouse are depicted below:





d. Shortly after the Targets jumped out of the Van and approached the Warehouse employees and Customers with firearms, a gunfight between the Warehouse employees and the Targets broke out.

e. At approximately 12:15 a.m., multiple MVPD officers responded to the armed robbery at the Warehouse. At the Warehouse, the MVPD officers observed a black male lying on the floor with an apparent gunshot wound to his head ("Male-1"). He was wearing green and white sneakers, grey and black jeans, and a black Nike hooded sweatshirt with the hood covering his face. Emergency Medical Services ("EMS") on scene pronounced him dead at 12:36 a.m. Fingerprint analysis of Male-1 determined that he was neither one of the Customers, nor an employee of the Warehouse.

f. MVPD officers also observed another male lying under a shelving unit in the Warehouse, with two apparent gunshot wounds to his torso, one gunshot wound to his left upper chest, and one to the lower left abdomen (the "Victim"). EMS transported the Victim to a Mount Vernon hospital, where he was pronounced dead at 1:07 a.m. The Victim was an employee of the Warehouse.

g. At the Warehouse, MVPD officers recovered an AR-15 firearm, four AR spent shell casings, three spent 9mm shell casings, approximately 1,665 pounds of marijuana in leafy form, and approximately 1,107 pounds of THC infused edibles. According to a Warehouse employee, the AR-15 was owned by the Warehouse and stored behind the register for protection purposes.

The Investigation of the Group of Armed Robbers

10. Based on publicly available records, the FBI and MVPD learned that Male-1 resided at an apartment (the "Bronx Apartment") in a multi-apartment complex in the vicinity of Clinton Avenue in Bronx, New York (the "Bronx Complex"). Law enforcement officers responded to the Bronx Complex, where the FBI and MVPD obtained video surveillance from outside and inside the Complex.

11. Based on my review of the video surveillance from the Bronx Complex, I am aware of the following:

a. On or about March 18, 2024—the day before the armed robbery at the Warehouse—at approximately 12:38 p.m., 7 males left the Bronx Complex and entered a Honda Odyssey (the “Honda Odyssey”).

b. On or about March 19, 2024, at approximately 4:35 a.m.—after the armed robbery at the Warehouse—the Honda Odyssey pulled up in front of the Bronx Complex and 6 males got out of the Honda Odyssey. Three of the males walked north on Clinton Avenue, while the other 3 males walked into the Bronx Complex and in the direction of the Bronx Apartment.¹

12. Furthermore, I compared still images from the video surveillance at the Warehouse during the armed robbery to still images from the video surveillance at the Bronx Complex and observed the following:

a. An individual named Joseph Perez, separately charged, was captured on video surveillance from the Bronx Complex prior to the armed robbery with his face clearly visible, and he is seen wearing white sneakers with red/orange laces and a baseball hat (see Image A). Moments later, Perez is captured on video surveillance outside the Bronx Complex carrying a white sweatshirt and wearing white sneakers and a baseball hat (see Image B). Video surveillance from the Warehouse at the time of the armed robbery captured Perez wearing the white sweatshirt with “GAP” written across the chest, white sneakers with red/orange laces, and what appears to be a baseball hat under his sweatshirt hood (see Image C). Following the armed robbery at the Warehouse, Perez is again captured on video surveillance at the Bronx Complex wearing the GAP sweatshirt and white sneakers with red/orange laces and what appears to be a baseball hat under his sweatshirt hood (see Image D).



Image A



Image B

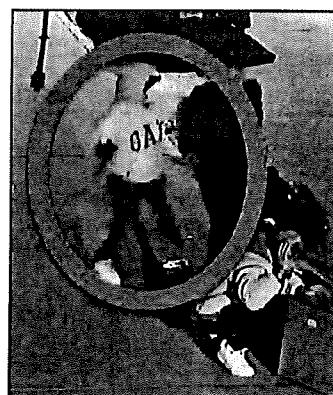


Image C

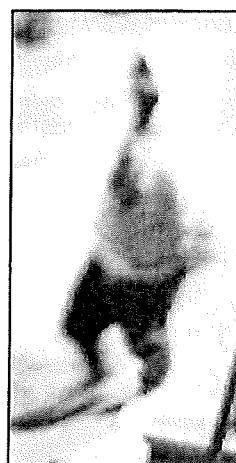


Image D

¹ Although there is no video camera that is directly pointed at the entrance to the Bronx Apartment, based on the direction in which the individuals were captured walking in the video surveillance, there was no other door, hallway, or staircase except for the Bronx Apartment to which the 3 males could have walked.

b. An individual named Jhoan Diaz-Feliz, separately charged, was captured on video surveillance at the Bronx Complex before the armed robbery with his face clearly visible, and he is seen wearing a black hooded sweatshirt with a thick grey line across the chest, dark pants, dark sneakers, and a baseball hat (*see* image below left). Later, Diaz-Feliz is captured on video surveillance at the Warehouse during the armed robbery of the Warehouse wearing the same (*see* image below right).



c. An individual named Ilario Contreras, separately charged, was captured on video surveillance from the Bronx Complex prior to the armed robbery with his face clearly visible, and he is seen wearing a black sweatshirt, black sweatpants, and white sneakers with yellow accents (*see* Image A). Moments later, the back of Contreras's sweatshirt is visible and there is distinctive white font written across the back of his sweatshirt (*see* Image B). Video surveillance from the Warehouse captured Contreras at the armed robbery wearing the black sweatshirt with distinctive white font (*see* Image C). After the armed robbery, Contreras was captured at the Bronx Complex wearing the black sweatshirt with distinctive white font, as well as the white sneakers with yellow accents (*see* Image D).



Image A



Image B



Image C



Image D

d. An individual named Jerpi Diaz-Feliz, a/k/a "Jorge Diaz-Feliz," separately charged, was captured on video surveillance from the Bronx Complex prior to the armed robbery with his face clearly visible, and he is seen wearing a black sweatshirt, black sweatpants, a black baseball hat with a white logo, and white sneakers with red and black accents and black laces (*see Image A*). He is also captured on video surveillance from the Bronx Complex prior to the armed robbery wearing the same clothing while walking with Contreras (*see Image B*). Following the armed robbery, Diaz-Feliz is again captured by video surveillance from the Bronx Complex wearing the same clothing described above, and he is walking with Contreras again (*see Image C*). Additionally, at least one individual who participated in the armed robbery, charged separately, confirmed that that Diaz-Feliz was involved in the armed robbery of the Warehouse.

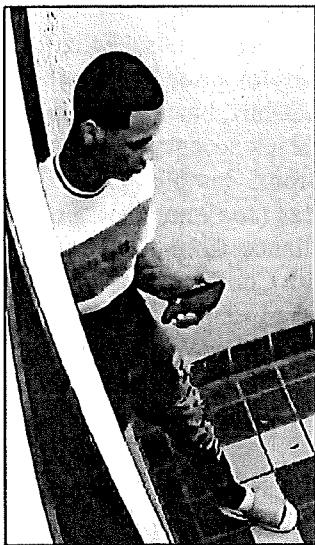


Image C

Image B

Image A

e. An individual named Victor Jimenez, separately charged, is captured by video surveillance from the Bronx Complex prior to the armed robbery with his face clearly visible, and he is seen wearing ripped jeans (*see below left*). He is also captured on video surveillance from the Bronx Complex after the armed robbery wearing the same ripped jeans and standing next to the Honda Odyssey (*see below right*). Additionally, at least one individual who participated in the armed robbery, charged separately, confirmed that Jimenez was involved in the armed robbery of the Warehouse. According to that individual, Jimenez, as part of the armed robbery, went around to the back of the Warehouse to gain entry, heard the gunshots, and fled on foot. Male-1's identification card was later found pursuant to a search of the person of Jimenez.



Identification of the Defendant

13. MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a “Markito,” a/k/a “Marco Yai,” the defendant, was captured on video surveillance from the Bronx Complex prior to the armed robbery wearing dark jeans, a blue baseball hat with a yellow brim, white sneakers with yellow or gold accents, and a necklace with a large and distinctive pendant (*see Image A*). Moments later the defendant was captured on video surveillance from the Bronx Complex with Contreras next to the Honda Odyssey, and the defendant is wearing the same clothing, but distinctive white patterns are visible on the pockets of his jeans (*see Image B*). As depicted on video surveillance, the defendant then reached into the Honda Odyssey and put on a black puffy jacket (*see Image C*). Video surveillance from the Warehouse at the time of the armed robbery captured the defendant wearing the same hat with a yellow brim, white sneakers with yellow or gold accents, puffy black jacket, and jeans with distinctive white patterns on the pockets (*see Image D*):



Image A

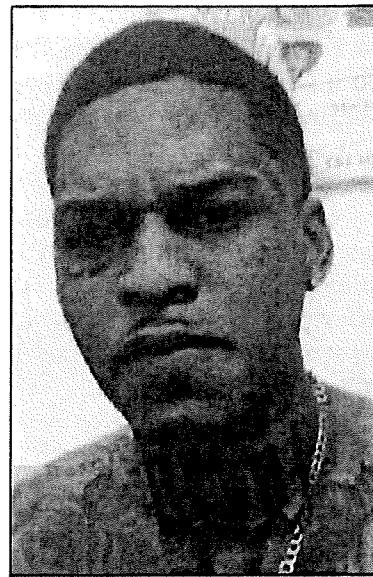
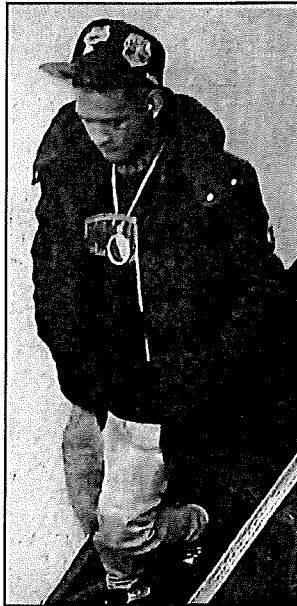
Image B

Image C

Image D

14. At least one individual who participated in the armed robbery, charged separately, confirmed that MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a "Markito," a/k/a "Marco Yai," the defendant, was involved in the armed robbery of the Warehouse.

15. After the armed robbery, video surveillance at the Bronx Complex captured MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a "Markito," a/k/a "Marco Yai," the defendant, in all new clothing, except that he was still wearing the necklace with the large and distinctive pendant (*see* image below left). The defendant's distinctive tattoos underneath his left eye and on his neck are clearly visible (*see* image below left). Using an image of the defendant's face, the FBI conducted searched through a facial recognition public records database and located a TikTok account with the username "marcoroyal" that depicted an individual that appeared to have identical tattoos on beneath his left eye and on his neck (*see* image below right).²



The Arrest of Five Armed Robbers and Vehicle Pursuit

16. On or about March 19, 2024, a source of confidential information (the "CI") participated in a voluntary interview with the FBI and told them, in substance and in part, that he participated in the armed robbery; that, prior to the robbery, one other participant of the armed robbery had told the CI that the group expected to rob the Warehouse of millions of dollars, kilograms of cocaine, and a large quantity of marijuana; and that that the group intended to sell the cocaine and marijuana after they stole it.

17. On or about March 19, 2024, at approximately 7:00 p.m., FBI and MVPD officers conducted surveillance of the Bronx Complex. The Honda Odyssey arrived to the Bronx Complex

² Certain images from the defendant's TikTok appear to be taken in "selfie mode," which resulted in the images of the defendant's face appearing to be mirrored. For that reason, in the TikTok image in this Complaint, the tattoo underneath the defendant's left eye appears to be underneath his right eye.

and parked outside the Bronx Complex. FBI and MVPD officers observed 7 males and 2 females leave the Bronx Complex with a large drawstring bag and grocery tote bag, both of which appeared full, and place them into the trunk of the Honda Odyssey.

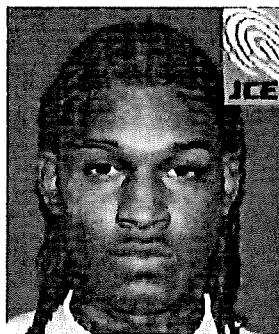
18. Shortly thereafter, a Honda Civic (the "Civic") arrived in front of the Bronx Complex. Approximately 2 males got out of the Honda Odyssey, grabbed the 2 bags out of the trunk of the Honda Odyssey, placed them in the back of the Civic, and entered the Civic. Approximately 5 males got out of the Honda Odyssey and split into two groups; one group entered a white Jeep (the "Jeep"), and another group entered a white Audi (the "Audi").

19. The Jeep, the Audi, and the Civic then left the Bronx Complex. At that time, FBI and MVPD officers conducted a stop of the Jeep, the Audi, and the Civic, and detained and searched all passengers in the three vehicles. Among the group that was detained were Ilario Contreras, Jerpi Diaz-Feliz, a/k/a "Jorge Diaz-Feliz," Jhoan Diaz-Feliz, Victor Jimenez, and Joseph Perez. While the FBI and MVPD were conducting the stops of the Jeep, the Audi, and the Civic, a Task Force Officer with the FBI still at the Bronx Complex observed the Honda Odyssey moving. The FBI attempted to stop the Honda Odyssey, but the Honda Odyssey fled. Shortly thereafter, the Honda Odyssey was cornered at a dead end on Hughes Avenue in Bronx, New York.

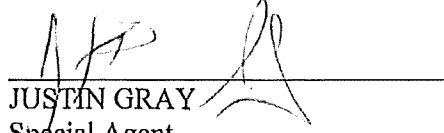
20. The sole occupant of the Honda Odyssey fled on foot and has not been caught. Based on my participation in this investigation, I believe that the sole occupant of the Honda Odyssey was MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a "Markito," a/k/a "Marco Yai," the defendant. I spoke with the Task Force Officer that pursued the sole occupant of the Honda Odyssey, who confirmed that he identified the defendant based on the clothing he was last seen wearing at the Bronx Complex (*see* Paragraph 15 left image) as well as the distinctive tattoo underneath the defendant's left eye.

21. On the evening of March 19, 2024, Ilario Contreras, Jerpi Diaz-Feliz, a/k/a "Jorge Diaz-Feliz," Jhoan Diaz-Feliz, Victor Jimenez, and Joseph Perez were arrested for their participation in the armed robbery of the Warehouse.

22. As part of this investigation, I obtained from Dominican Republic authorities a cédula card—a photo identification card issued to all Dominican citizens—for MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a "Markito," a/k/a "Marco Yai," the defendant. I compared the photograph from the cédula card below to the images depicted in Paragraph 15 above, and believe that FERNANDEZ-RODRIGUEZ is the individual who participated in the armed robbery of the Warehouse.

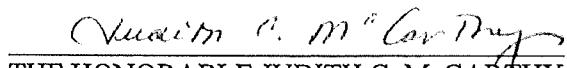


WHEREFORE, I respectfully request that a warrant be issued for the arrest of MARCO TULIO FERNANDEZ-RODRIGUEZ, a/k/a "Markito," a/k/a "Marco Yai," the defendant, and that they be arrested, and imprisoned or bailed, as the case may be.



JUSTIN GRAY
Special Agent
Federal Bureau of Investigation

Sworn to before me this 18th day of July, 2024.



THE HONORABLE JUDITH C. McCARTHY
United States Magistrate Judge
Southern District of New York

